
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

HEATHER SMOUT,
Plaintiff,

v.

CUTRUBUS MOTORS et al.,
Defendants.

MEMORANDUM DECISION AND
ORDER DENYING PLAINTIFF'S
REQUEST TO APPOINT COUNSEL

Case No. 1:15-CV-1 TS

District Judge Ted Stewart

This matter is before the Court on Plaintiff's Motion for Appointment of Counsel. As a civil litigant, Plaintiff has no constitutional right to counsel.¹ 28 U.S.C. § 1915(e) provides that "[t]he court may request an attorney to represent any person unable to afford counsel." The appointment of counsel under this statute is within the discretion of the court.² When deciding whether to appoint counsel, the Court considers a variety of factors, "including 'the merits of the litigant's claims, the nature of the factual issues raised in the claims, the litigant's ability to present his claims, and the complexity of the legal issues raised by those claims.'"³

In considering these factors, the Court concludes that (1) it is not yet clear whether Plaintiff has asserted a colorable claim; (2) the issues involved, both factually and legally, do not appear to be overly complex; and (3) Plaintiff is not incapacitated or otherwise unable to adequately prosecute this matter. Therefore, the Court will deny Plaintiff's Motion for

¹ *MacCuish v. United States*, 844 F.2d 733, 735 (10th Cir. 1988).

² *McCarthy v. Weinberg*, 753 F.2d 836, 838 (10th Cir. 1985).

³ *Rucks v. Boergermann*, 57 F.3d 978, 979 (10th Cir. 1995) (quoting *Williams v. Meese*, 926 F.2d 994, 996 (10th Cir. 1991)).

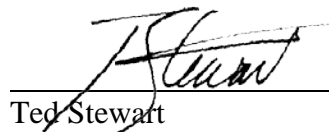
Appointment of Counsel. However, if this case is found to have merit and if it appears that counsel will be needed to assist Plaintiff, the Court may ask an attorney to appear pro bono on Plaintiff's behalf at a later date.

It is therefore

ORDERED that Plaintiff's Motion for Appointment of Counsel (Docket No. 15) is
DENIED.

DATED this 13th day of August, 2015.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Ted Stewart", is written over a horizontal line.

Ted Stewart
United States District Judge